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July 7, 2023

The Honorable Colm F. Connolly  
Chief, United States District Judge  
United States District Court  
for the District of Delaware  
844 N. King Street  
Wilmington, DE 19801

Re: *Unstoppable Domains, Inc. v. Wallet Inc. and Scott Florcsk*,  
C.A. No. 22-1231-CFC;  
*Scott Florcsk v. Unstoppable Domains Inc.*, C.A. No. 22-1230-CFC

Dear Chief Judge Connolly,

The parties in the above-captioned cases have conferred and jointly submit this letter in response to the Court's June 26, 2023 Oral Order requesting the parties' position on consolidation of these cases and the status of pending motions.<sup>1</sup>

The parties agree that these cases should be consolidated for all purposes, including trial. As the earlier filed case, Scott Florcsk believes C.A. No. 22-1230 should be the lead case. Unstoppable Domains believes that its case (C.A. No. 22-1231, filed within an hour of C.A. No. 22-1230) should be the lead case because it asserts affirmative claims for relief against Wallet, Inc. and Scott Florcsk, whereas Scott Florcsk asserts claims that are essentially defensive in nature, including for a declaratory judgment of no trademark infringement and an antitrust claim based on the theory that Unstoppable Domains' recently dismissed case in *Unstoppable Domains, Inc. v. Gateway Registry, Inc. and James Stevens*, C.A. No. 22-948-CFC, was a "sham litigation."

Pending before the Court are two fully briefed motions to dismiss. In C.A. No. 22-1230, Defendant Unstoppable Domains has moved to dismiss Plaintiff Scott Florcsk's second and third claims for unfair competition and attempted

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<sup>1</sup> Unstoppable Domains recently dismissed a related case, *Unstoppable Domains, Inc. v. Gateway Registry, Inc. and James Stevens*, C.A. No. 22-948-CFC.

The Honorable Colm F. Connolly  
July 7, 2023

Page 2

monopolization. C.A. 22-1230, D.I. 17. In C.A. 22-1231, Defendants Wallet, Inc. and Scott Floresk have moved to dismiss all of Plaintiff Unstoppable Domains' claims against them: trademark infringement, unfair competition, intentional interference with contractual relations, and intentional interference with prospective business relationships. C.A. No. 22-1231, D.I. 18.

Because of the passage of time since the motions were filed, Unstoppable Domains believes the Court may benefit from short supplemental submissions regarding the pending motions. Specifically, Unstoppable Domains would address the rapidly changing market for Web3 domains and new facts relevant to the motions that have evolved in just the seven months since briefing was completed. To that end, Unstoppable Domains proposes that it be permitted to file a supplemental brief of no more than five pages in opposition to Defendants' motion to dismiss, and Defendants file a responsive supplemental brief of no more than five pages.

Scott Floresk and Wallet, Inc. do not believe supplemental briefing is warranted. For purposes of the pending motions, the only facts that are relevant are those that existed at the time the lawsuits were filed, and not any purported new developments. Further, such supplemental briefing requested would only cause unnecessary delay in the disposition of the motions.

The parties are available at the Court's convenience to discuss these issues.

Respectfully,



Michael J. Flynn (#5333)  
*Counsel for Unstoppable Domains, Inc.*

cc: All counsel of record (via CM/ECF and email)